

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 250

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO THE SALES AND USE TAX ON EQUIPMENT USED IN ALTERNATIVE METHODS OF GENERATION OF ELECTRICITY; AMENDING SECTION 63-3622QQ, IDAHO CODE, TO REVISE REQUIREMENTS REGARDING THE SALES TAX REBATE FOR EQUIPMENT USED IN ALTERNATIVE METHODS OF GENERATION OF ELECTRICITY; AND AMENDING SECTION 2, CHAPTER 355, LAWS OF 2005, TO EXTEND THE SUNSET DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 63-3622QQ, Idaho Code, be, and the same is hereby amended to read as follows:

63-3622QQ. EQUIPMENT USED IN ALTERNATIVE METHOD OF GENERATION OF ELECTRICITY. (1) Purchasers of qualifying machinery and equipment used directly in generating electricity using fuel cells, low impact hydro, wind, geothermal resources, biomass, cogeneration, sun or landfill gas as the principal source of power may qualify for a rebate of sales or use taxes paid on such purchases but only if the purchaser achieves commercial operation of an electrical generating facility by December 31, 2014, and develops with such qualifying machinery, equipment, and tangible personal property a facility capable of generating not less than twenty-five (25) kilowatts of electricity.

(2) For purposes of this section:

(a) "Landfill gas" means biomass fuel of the type qualified for federal tax credits under 26 U.S.C. section 29 collected from a landfill.

"Landfill" means a landfill as defined in section 39-7403, Idaho Code;

(b) "Qualifying mMachinery and equipment" means industrial fixtures, devices, and support facilities that are integral and necessary to the generation of electricity using fuel cells, low impact hydro, wind, geothermal resources, biomass, cogeneration, sun, or landfill gas as the principal source of power. "Qualifying mMachinery and equipment" includes all operating property as described in section 63-3501(h), Idaho Code;

(c) Notwithstanding subsection (2) (b) of this section, "qualifying machinery and equipment" does not include:

(i) Hand-powered tools;

(ii) Property with a useful life of less than one (1) year;

(iii) Repair parts required to restore machinery and equipment to normal working order;

(iv) Replacement parts that do not increase productivity, improve efficiency, or extend the useful life of machinery and equipment;

(v) Buildings; or

(vi) Building fixtures that are not integral and necessary to the generation of electricity that are permanently affixed to and become a physical part of a building;

(d) ~~Qualifying m~~Machinery and equipment is "used directly" in generating electricity with fuel cells or by low impact hydro, wind energy, geothermal resources, biomass, cogeneration, solar energy or landfill gas power if it provides any part of the process that captures the energy of the fuel cells, low impact hydro, wind, geothermal resources, biomass, cogeneration, sun, or landfill gas, converts that energy to electricity, and stores, transforms or transmits that electricity for entry into or operation in parallel with electric transmission and distribution systems;

(e) "Fuel cell" means an electrochemical reaction that generates electricity by combining atoms of hydrogen and oxygen in the presence of a catalyst;

(f) "Low impact hydro" means an electric generating facility utilizing water for the generation of electricity, housed in existing canals or existing reservoirs and having a power production capacity twenty-five (25) kilowatts or greater.

(3) To qualify for the rebate, the taxpayer ~~and his contractors~~ must:

~~(a) pay sales and use tax on their purchases of property. Once Obtain a certification from a public utility, a cooperative, a municipality or the public utilities commission certifies that the project will generate at least twenty-five (25) kilowatts of electricity, the taxpayer may file a refund request with the state tax commission.;~~

~~(b) The refund request shall state that the taxpayer will construct or has constructed On or before December 31, 2014, achieves commercial operation by a project that will generate sufficient kilowatts of electricity at the project site to be eligible for the rebate and that the taxpayer is entitled to receive a rebate; and~~

~~(c) Pay sales and use tax on purchases of property and file a refund request of all sales and use taxes paid that qualifies for the rebate created by this section.~~

(4) Upon filing of a written refund claim by the taxpayer entitled to the rebate, and subject to such reasonable documentation and verification as the state tax commission may require, the rebate shall be paid by the state tax commission as a refund allowable under section 63-3626, Idaho Code. A claim for rebate under this section must be filed on or before the last day of the third calendar year following the year in which the taxes sought to be rebated were paid or the right to the rebate is lost.

(5) Any rebate paid shall be subject to recapture by the state tax commission. In the event the property is not used, stored or otherwise consumed in the process of generating electricity for a period of sixty (60) months, the state tax commission may recapture the tax paid in the same proportion as an amount of credit required to be recaptured under section 63-3029B, Idaho Code.

(6) Any recapture amount due under this section shall be a deficiency in tax for the period in which the disqualification first occurs for purposes of section 63-3629, Idaho Code, and may be enforced and collected in the manner provided by the Idaho sales tax act, provided however, that in lieu of the provisions of section 63-3633, Idaho Code, the period of time within which the commission may issue a notice under section 63-3629, Idaho Code, in regard to an amount subject to recapture shall be the later of five

1 (5) years after the end of the taxable year, for income tax purposes, in which
2 the project period ends.

3 SECTION 2. That Section 2, Chapter 355, Laws of 2005, be, and the same is
4 hereby amended to read as follows:

5 SECTION 2. An emergency existing therefor, which emergency is hereby
6 declared to exist, this act shall be in full force and effect on and after its
7 passage and approval, and shall be null, void and of no force and effect on
8 and after July 1, 2014.